



# Policy: Data Retention and Archiving

Department: IT

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## 1. Overview

In the course of carrying out its various functions and activities, 110% Ltd collects information from individuals and external organisations and generates a wide range of data/information which is recorded. These records can take many different forms, such as:

- Letters received from third parties
- Copy letters which have been sent out
- Personnel records
- Invoices
- Completed application forms
- Financial records
- Contact lists
- Contracts
- Email communications and attachments
- Photos

Many of the above documents can be retained as physical paper records or in electronic form.

Retention of specific documents may be necessary to:

- Fulfil statutory or other regulatory requirements.
- Evidence events/agreements in the case of disputes.
- Meet operational needs.
- Ensure the preservation of documents of historic or other value.

The untimely destruction of documents could cause 110% Ltd:

- Operational problems.
- Difficulty in defending litigious claims.
- Reputational damage.
- Failure to comply with the Data Protection Act 1998.

Conversely, the permanent retention of all documents is undesirable, and appropriate disposal is to be encouraged for the following reasons:

- To avoid unnecessary/excessive use of storage space (electronic or physical).
- Indefinite retention of personal data may be unlawful.
- Reduction of fire risk (in the case of paper records).
- To keep records and office accommodation de-cluttered.

Good practice in records management emphasises the importance of organisations having in place systems for the timely and secure disposal of documents/records that are no longer required for business purposes.

## **2. Scope & purpose**

The purpose of this policy is to provide an organisation-wide policy framework to govern management decisions on whether a particular document (or set of documents, including electronic versions) should either be:

- Retained – and if so in what format, and for what period; or
- Disposed of - and if so when and by what method.

For the avoidance of any doubt, this policy is not concerned with the disposal/retention of unused materials (e.g. stocks of paper, unused forms, duplicated documents)

## **3. The retention/disposal protocol**

Any decision whether to retain or dispose of a document should be taken in accordance with the retention/disposal protocol. This protocol consists of:

- The key disposal/retention considerations criteria checklist, set out in Appendix II. Essentially no document should be disposed of unless all these have been considered in relation to the document.
- The Retention Schedules (taken from the Records Management Society) contained in Appendix 2. These provide guidance on recommended and mandatory minimum retention periods for specific classes of documents/records.

Where a retention period has expired in relation to a particular document a review should always be carried out before a final decision is made to dispose of that document. Such reviews need not necessarily be detailed or time consuming.

In the event that a decision is taken to dispose of a particular document or set of documents, then consideration should be given to the method of disposal (see section 4 below).

Particular attention must be paid to our users and clients who are registered to our Slack offering. We are subject to the Slack Data Retention Policy and that the user and the PA need to unsubscribe in order for the data to be deleted - which can happen upon request.

## **4. Disposal of documents/records**

A separate policy describes 110% Ltd.'s policy regarding secure disposal of confidential information.

Where appropriate, activities related to the destruction of records will be documented and maintained by the Data Protection Officer. The following information will be included in the documentation of the destruction:

- The date of the record destruction
- The method of destruction
- A description of the records that were destroyed
- The start and end date of the records
- The signatures of the individual conducting the destruction and of the witness of the action

As guidance however, staff should take into account the following considerations when selecting any method of disposal:

- Under no circumstances should paper documents or removable media (CDs, DVDs, discs, etc) containing personal data or confidential information be simply binned or deposited in refuse tips. To

do so could result in the unauthorised disclosure of such information to third parties, and render 110% Ltd liable to action under the Data Protection Act. Such documents should be destroyed on site (e.g. by shredding) or placed in “Confidential Waste” refuse bins.

- Deletion – the Information Commissioner’s Office has advised that if steps are taken to make data virtually impossible to retrieve, then this will be regarded as equivalent to deletion.
- Recycling – wherever practicable disposal should further re-cycling, in-line with 110% Ltd.’s commitment to the environment.

## 5. Document retention and the Data Protection Act 1998

Staff should be aware that under the Data Protection Act personal data processed for any purpose must not be kept for longer than is necessary for that purpose. In other words, retaining documents or records that contain personal data beyond the length of time necessary for the purpose for which that data was obtained is unlawful.

The Data Protection Legislation contains no interpretive provisions on this provision. It is a matter for reasonable judgement and common sense as to how long personal data should be retained.

Clearly, in many instances the retention of personal data will be necessary and thus justified for a significant period of time. In general, provided there is adherence to this Policy, few problems should arise.

## 6. How long should I store emails?

Not only does the storage of large numbers of emails consume valuable computer resources but if the saved messages refer to individuals then they are also likely to be governed by the Data Protection Act 1998. This means that the subject of the message may have the right to request access to the email. Increasingly law courts are also asking organisations to compile data held in the form of emails as evidence in tribunals and other court cases. Emails should therefore not be retained for longer than is absolutely necessary.

As a rule of thumb, emails should be deleted after 6 months unless it is necessary to retain them for longer.

Further guidance on the retention of documents is available from the IT Department or the Director of Business Management. The IT Department can also advise you on good housekeeping practices regarding the storing and deleting of emails.

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## Appendix I: Key disposal/retention considerations criteria checklist

### 1. Has the document/record set been appraised?

As a first step, the nature/contents of any documents or records being considered for disposal should be ascertained. No document(s) should be earmarked or designated for disposal unless this has been done. Insofar as *existing documents or records* are concerned it follows that the above can only be achieved by inspection. The process may only take a few moments.

Nonetheless it can be a skilled task - depending on the complexity of the document(s) concerned – and should only be undertaken by staff who possess sufficient operational knowledge to enable them to identify the document concerned and its function within 110% Ltd. Any decision to the effect that *future documents* of a specified description be disposed of on expiry of a specified retention period should be an informed one *i.e.* taken with a full appreciation and understanding of the nature and function of the document/records.

The above is largely common sense, and hardly needs to be stated. However, if appraisal is inadvertently overlooked or carried out negligently, or by an employee who lacks the necessary background operational knowledge, 110% Ltd runs the risk of important documents being destroyed in error.

### 2. Is retention required to fulfil statutory or other regulatory requirements?

There is very little specific legislation that stipulates mandatory retention periods for documents held by 110% Ltd. However, staff should seek advice if they believe that there may be legislation which, either directly or indirectly, imposes minimum retention periods on the documents they are handling. For instance, minimum retention periods for certain financial records may be applicable.

### 3. Is retention required to evidence events in the case of dispute?

On rare occasions, 110% Ltd may become involved in disputes with third parties. Such disputes, if not satisfactorily resolved, can result reputational damage and the dissatisfied party potentially bringing legal proceedings against 110% Ltd. Conversely, 110% Ltd may wish to institute legal proceedings against an individual or organisation, e.g. to recover an unpaid debt, or in respect of faulty workmanship.

Where a dispute arises, or litigation has been commenced it is important that 110% Ltd has access to all correspondence and other documentation that is relevant to the matter.

The Limitations Act 1980 specifies time limits for commencing litigation. The starting point therefore, is that the retention period is the length of time that has to elapse before a claim is barred. The majority of potential legal claims are statute barred on the expiry of 6 years. For this reason, many organisations consider it prudent to retain files/records for a period of 6 years from the date when the subject matter was completed.

It is important, though, to keep in mind that in the course of 110% Ltd everyday business large masses of document action are generated that serve no purpose after relatively short periods of time. Many documents will relate to completed matters where, realistically, the risk of subsequent litigation or other dispute is minimal, if not non-existent. Long-term retention of such documents is counter-productive.

Staff should be prepared to carry out a risk analysis, with a view to disposal of such documents within a shorter period of than the 6 year time frame.

#### **4. Is retention required to meet the operational needs of 110% Ltd?**

In some cases retention may be desirable (whether permanent or otherwise) even though no minimum retention period applies or has expired. Staff should be aware of the risk of discarding documents or records that might be useful for future reference purposes (e.g. training), as precedents, or for performance management (performance indicators, benchmarking and comparison exercises). A professional judgement needs to be made as to the usefulness of a particular document.

#### **5. Is retention required because the document or record is of historic interest or intrinsic value?**

In most cases this consideration will not be applicable. However, it is possible that some documents/records may be of historic interest.

Where it is suspected that the document falls within this description appropriate enquires should always be made before taking any further action. The Director of IT or the Director of Business Management should be contacted for advice and guidance in the first instance.

Even if the document is of historical or monetary value, disposal rather than retention by 110% Ltd, may well be the appropriate option (e.g. by way of transfer to a third party).

## Appendix II: Suggested retention period for different types of documents

Type of record	Suggested retention period
Accident records	3 years after end of investigation
Any information private to any individual	Destroy when no longer required
Bank records	7 years
Company records	Permanent
CVs and job applications not hired	6 months after notification
Disciplinary records	5 years following end of employment
Employer's liability insurance certificate	40 years
General email correspondence	6 months unless likely that it will be need to retained for longer
Historical records relating to 110% Ltd	Permanent
Medical and safety records	7 years
Personnel files	5 years following end of employment
Property records, trust deeds	Permanent
Redundancy records	6 years after redundancy
Sickness/sick pay records	3 years
Software and hardware inventory details	7 years
Tax records - self-employed or partnership	5 years from last tax date
Tax records - companies	6 years from last accounting period